IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 423 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

D.K.PARMAR

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioner

MR RC KODEKAR APP for Respondent No. 1

DS AFF.NOT FILED (N) for Respondent No. 2

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 09/02/2001

ORAL JUDGEMENT

1. Heard the learned advocate for the petitioner and Mr.Kodekar, learned APP for the State.

2. Here, in this case, the question of sanction under section 149 of the Cooperative Societies, Act, 1961 alongwith other questions has been involved, and therefore, the matter is required to be sent back to the trial court for the purpose of deciding the same. Learned APP is also not having sufficient instructions regarding sanction, and therefore, in the fitness of the case, the petitioner is directed to approach before the court below and file an application with regard to the preliminary issue regarding maintainability of the complaint. The trial court is directed to decide the same after giving an opportunity to the parties. The petitioner is at liberty to ask for exemption and the court may decide the same sympathetically till it decide the application.

3. With these directions, Misc.Criminal Application stands disposed of. Rule is discharged with no order as to costs. Interim relief granted earlier shall stands vacated.

(R.P.Dholakia,J)
(pathan)